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**UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF NEW YORK
 DIVISION OF BUFFALO**

Casey Milbrand	1	CASE NO.
	1	
Plaintiff	1	COMPLAINT FOR DAMAGES
	1	AND INJUNCTIVE RELIEF
v.	1	
	1	DEMAND FOR JURY TRIAL
43 North LLC	1	
	1	
	1	
	1	
Defendant	1	
	1	
-----	1	

Plaintiff, Casey Milbrand, Plaintiff, as and for his Complaint against 43 North LLC alleges as follows:

INTRODUCTION

1. Casey Milbrand (hereinafter "Plaintiff"), by his Attorneys, brings this action to recover damages and to challenge the actions of 43 North LLC with regard to the unlawful use in advertising of two copyrighted and registered images (hereinafter "Images") owned by the Plaintiff, which conduct by the Defendant caused the Plaintiff damages.
2. For the purposes of this Complaint for Damages, unless otherwise indicated, "Defendant" includes all agents, employees, officers, member, directors, principals, trustees, sureties, subrogates, representatives and insurers of the Defendant named in the caption above.

JURISDICTION AND VENUE

3. This is a civil action seeking damages and injunctive relief for copyright infringement under the Copyright Act of the United States, 17 U.S.C. Section 101, whereby the Defendant violated Plaintiff's exclusive rights as copyright owner pursuant to 17 U.S.C. Section 106
4. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement pursuant to 28 U.S.C. Section 1331 and 28 U.S.C. Section 1338(a).

5. This Court has personal jurisdiction over the Defendant because the Defendant is a business entity incorporated and/or existing under the laws of the State of New York, and Defendant's acts of infringement complained of herein occurred in the State of New York and caused injury to the Plaintiff in his intellectual property within the State of New York.
6. Venue is proper pursuant to 28 U.S.C. Section 1391(b) because the Defendant resides and is domiciled and maintain its main offices for conducting businesses within this judicial district and a substantial part of the events giving rise to Plaintiff's claim occurred in this judicial district. Alternatively, venue is also proper pursuant to 28 U.S.C. Section 1400(b) because the Defendant committed the acts of infringement and has established regular places of business in this judicial district.

PARTIES

7. Plaintiff is a natural person and a professional artist by trade.
8. Plaintiff is a "copyright owner" who holds "exclusive rights" to the "copyrighted work" at issue herein pursuant to 17 U.S.C. Sections 101 and 106.
9. Plaintiff is informed and believes, and thereon alleges, that the Defendant is a business entity operating in the City of Buffalo, in the State of New York, and that it conducted business within the City of Buffalo, in the State of New York.
10. Plaintiff is informed and believes, and thereon alleges, that Defendant unlawfully utilized and published Plaintiff's copyrighted work without Plaintiff's express or implied authority and that said use was unlicensed.

FACTUAL ALLEGATIONS

11. Plaintiff is informed and believes, and thereon alleges, that at all times relevant, Defendant was a business entity residing within and with its main office within the State of New York.
12. Plaintiff is a well-known professional artist who designs, creates, and paints murals which Plaintiff sells or licenses to people and companies seeking to make use of the images created by Plaintiff for advertisements and pecuniary gain. Plaintiff's livelihood is dependent upon receiving compensation for the art works and murals he produces.
13. Plaintiff created the original Images at issue (see original Images attached hereto as Exhibit A)
14. Plaintiff has ownership rights and copyrights to the Images.
15. Plaintiff has registered the Images with the United States Copyright Office of the Library of Congress under registration number VAu001-288-802 and Vau1-457-308 (see Registration Certificates attached hereto as Exhibit B)
16. Plaintiff did not consent to, authorize, permit, or allow in any manner the use of the Images by

Defendant, nor did Plaintiff receive any request to do so.

17. Plaintiff is informed and believes that the Defendant used Plaintiff's copyrighted work without Plaintiff's permission and that Defendant published, communicated, posted, publicized, advertised, benefited through, and otherwise held out to the public, the original and unique work of Plaintiff, for commercial purposes, without Plaintiff's consent or authority.
18. Plaintiff is informed and believes that Defendant used the Images in a promotional video disseminated to the public and that Defendant further used the image in advertising and on its website (see screenshots of Defendant's use, attached hereto as Exhibit C).
19. Plaintiff is informed and believes that Defendant used the Images to promote Defendant's business, brand and website.
20. Defendant used the Images to promote Defendant's fund raising activities and to attract participants to Defendant's business competition, and despite being warned about the illegal use of the image, Defendant continued to make the illegal use of the Images making the same available to the public over the internet.
21. Plaintiff did not consent to the use of his artwork comprising the Images.

**FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
Title 17 of the United States Code**

22. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
23. Plaintiff did not consent to, authorize, permit, or allow in any manner the said use of Plaintiff's unique and original materials and/or work
24. Plaintiff is informed and believes, and thereon alleges, that the Defendant breached Title 17 of the U.S.Code in that Defendant published, communicated, benefited through, posted, publicized and otherwise held out to the public for commercial benefit, the original and unique work of the Plaintiff without Plaintiff's consent or authority and acquired monetary gain and market benefit as a result.
25. As a result of each and every one of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. Section 504(b) or statutory damages for each violation in an amount up to \$150,000.00 if willful or up to \$30,000.00 for each violation if unintentional pursuant to 17 U.S.C. Section 504.
26. As a result of the Defendant's violations of Title 17 of the U.S. Code, the Court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees from Defendant pursuant to 17 U.S.C. Section 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

- Awarding statutory damages pursuant to 17 U.S.C. Section 504(c) or actual damages pursuant to Section 504(b);
- Awarding costs of litigation and reasonable attorney's fees, pursuant to 17 U.S.C. Section 505;
- Enjoining Defendant from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. Section 502(a); and
- Providing such other and further relief as the Court deems just and proper under the circumstances

Dated: March 13, 2023

Respectfully submitted,

s/ Stuart B. Shapiro

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Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, Casey Milbrand, hereby demands a trial by jury in the above matter.

Dated: March 13, 2023

Respectfully submitted,

s/ Stuart B. Shapiro

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